

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Edwin Daniels,)	No. CV-04-717-PHX-MHM (HCE)
)	
Petitioner,)	
)	ORDER
vs.)	
)	
John Ashcroft; et. al.,)	
)	
Respondents,)	
)	

Petitioner through counsel has filed a Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241. (Dkt. #1). The matter was referred to United States Magistrate Judge Nancy Fiora. It was later referred to Magistrate Judge Hector C. Estrada due to Judge Fiora's retirement. Judge Estrada has issued a Report and Recommendation that recommends that the Court grant Petitioner's Motion to Dismiss (Dkt. #26) and enter an order of dismissal without prejudice. Neither party has filed a written objection to the Report and Recommendation.

STANDARD OF REVIEW

The Court must review the legal analysis in the Report and Recommendation de novo. See 28 U.S.C. § 636(b)(1)(C). The Court must review the factual analysis in the Report and Recommendation de novo for those facts to which objections are filed. "Failure to object to a magistrate judge's recommendation waives all objections to the judge's findings of fact." Jones v. Wood, 207 F.3d 557, 562 n.2 (9th Cir. 2000).

DISCUSSION

Petitioner filed his Petition for Writ of Habeas Corpus on April 12, 2004 when he was in physical custody of the Department of Homeland Security ("DHS"). On August 14, 2006, Petitioner filed a Motion to Dismiss the case as Moot. Petitioner states that this action is moot because he is no longer in DHS custody and is no longer in immediate threat of removal from the United States.

The Court has considered the relevant pleadings of record in this case. The Court agrees with the recommendation of the Magistrate Judge and concludes that the Report and Recommendation should be adopted in its entirety.

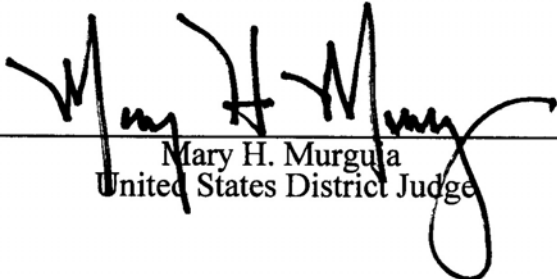
Accordingly,

IT IS ORDERED that the Court adopts the Magistrate Judge's Report and Recommendation (Dkt. #27) in its entirety.

IT IS FURTHER ORDERED that Petitioner's Motion to Dismiss the Petition for Writ of Habeas Corpus without prejudice (Dkt. #26) is granted.

IT IS FURTHER ORDERED that the Petition for Writ of Habeas Corpus (Dkt. #1) is dismissed without prejudice.

DATED this 9th day of January, 2007.



Mary H. Murgula
United States District Judge